RCRA Inspection Report

1) Inspectors and Authors of Report

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2) Facility Information

Benjamin Moore and Company
109 Bamberg Drive
Pell City, Alabama 35125
St. Clair County
EPA ID: ALD981472798

3) Responsible Official

Adam Power, Manufacturing Manager

4) Inspection Participants

Adam Power	Benjamin Moore and Company
Max Breckenridge	Benjamin Moore and Company
Jonah Harris	Alabama Department of Environmental Management Land Division
Paula Whiting	US EPA Region 4 Atlanta

5) Date and Time of Inspection

June 26, 2019 at 10:00 a.m. CDT

6) Applicable Regulations

Subtitle C of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. §§ 6921 – 6939g), the Alabama Hazardous Waste Management and Minimization Act of 1978, Ala. Code § 22-30-1 *et seq.*; 40 Code of Federal Regulation (C.F.R.), Parts 260 - 270, 273 & 279, and rules 335-14-1 to 335-14-17 (2016 and 2018) of the Alabama Department of Environmental Management (ADEM) Administrative Code (ADEM Admin. Code).

As the State's authorized hazardous waste program operates in lieu of the federal RCRA program, the citations of those authorized provisions alleged herein will be to the authorized State program;

however, for ease of reference, the federal citations will follow in brackets.

Pursuant to ADEM Admin. Code r. 335-14-3-.01(7) [40 C.F.R. § 262.17], a large quantity generator (LQG) may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, as required by Section 22-30-12(b) of the AHWMMA, Ala. Code § 22-30-12(b) [Section 3005 of RCRA, 42 U.S.C. § 6925], provided that the generator complies with the conditions listed in ADEM Admin. Code r. 335-14-3-.01(7) [40 C.F.R. § 262.17] (hereinafter referred to as the "LQG Permit Exemption").

Pursuant to ADEM Admin. Code r. 335-14-3-.01(5)(a) [40 C.F.R. § 262.15(a)], a generator may accumulate as much as 55 gallons of non-acute hazardous waste in containers at or near the point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or without having interim status, as required by Section 22-30-12(b) of the AHWMMA, Ala. Code § 22-30-12(b) [Section 3005 of RCRA, 42 U.S.C. § 6925], and without complying with ADEM Admin. Code r. 335-14-3-.01(6)(b) or 335-14-3-.01(7)(a) [40 C.F.R. § 262.16(b) or §262.17(a)], except as required in ADEM Admin. Code r. 335-14-3-.01(5)(a)7. and 8. [40 C.F.R. § 262.15(a)(7) and (8)], provided that the generator complies with the satellite accumulation area conditions listed in ADEM Admin. Code r. 335-14-3-.01(5)(a) [40 C.F.R. § 262.15(a)] (hereinafter referred to as the "SAA Permit Exemption").

7) Purpose of Inspection

The purpose of the inspection was to conduct an unannounced RCRA compliance evaluation inspection (CEI) to determine the compliance of Benjamin Moore and Company, EPA ID# ALD981472798 with the applicable regulations.

8) Facility Description

Benjamin Moore and Company (Benjamin Moore) in Pell City, Alabama, is a manufacturer of paints and stains for interior and exterior residential and commercial use as well as industrial coatings. The paints are manufactured in sizes that vary from quart containers to 250-gallon totes. All products that are shipped from this facility are transported to Benjamin Moore distribution centers.

Benjamin Moore has two paint production areas located on site: Main Building and Low Flash Building. The paint manufacturing process is a two-stage batch process that begins with raw materials mixed together into a high solids slurry. The slurry is then piped into tanks for shading which determines the color, texture and purpose for the paint. From shading the finished paint is piped to the Final Product tanks for storage before sending to the Fill Tower tanks for a quality control check and then piped to the final containers.

Benjamin Moore is on 84 acres with 140,000 square feet of production area and 62,000 square feet of warehouse. Benjamin Moore employs approximately 170 employees with 12 employees that handle hazardous waste. The facility operates 5 days per week, 24 hours per day and three shifts.

Benjamin Moore's most recent Hazardous Waste Generator Notification (EPA Form 8700-12), dated April 15, 2019, characterized the facility as a large quantity generator (LQG) of hazardous waste.

Currently, Benjamin Moore generates used oil, universal wastes, paint and solvent waste, and other wastes which includes hazardous wastes with EPA waste codes D001, D002, D004, D005, D006, D007, D008, D011, D035 and F005.

9) Previous Inspection History

This facility was previously inspected on December 18, 2018 by ADEM. The following four violations were found during the inspection: the tank and its auxiliary connections were not tagged or monitored for leak detection, daily inspections were not conducted on the tank, the tank was not labeled as hazardous waste and the tank did not have an integrity test conducted by a professional engineer. The facility is working on returning the violations to compliance.

10) Findings

At approximately 10:00 a.m. CDT, the EPA and ADEM inspectors arrived at the Benjamin Moore facility, presented their credentials to the front desk. Mr. Max Breckenridge, EHS Manager, greeted the inspectors and showed them to the conference room. Mr. Breckenridge and Mr. Adam Power, Manufacturing Manager, met with the inspectors for an opening conference before escorting them around the facility. The inspectors presented their credentials to Mr. Breckenridge at 10:25 a.m. CDT and Mr. Power at 10:40 a.m. CDT.

At the opening conference, a brief explanation of the purpose of the inspection was given, as well as an introduction of the ADEM and EPA inspectors. The inspectors requested a description of the facility operations. The inspectors then performed a walk-through inspection of specific areas in the facility. Below is a description of the observations made during the walk-through.

10.1 Production

The paint is produced in batches. After each batch the process lines are flushed with either water or solvent depending on the paint type. The process is closed loop so that the flush is built into the formulation. The batch sizes range from 800 gallons to 10,000 gallons. After storage and quality control check, the paint is filled into quart, one-gallon, 5-gallon or 55-gallon containers, boxed, palletized and shrink-wrapped and warehoused.

The inspectors observed that the Filling Line had four 55-gallon drums staged to capture the Alkyd fill tank flush (Picture 4). The dirty solvent flush lines were not marked (Pictures 1-3), but the lines are not currently connected to the hazardous waste tank which has been taken out of commission. Instead the dirty solvent is being piped in the 55-gallon drums. The drums were empty at the time of the inspection.

Above the Filling Line were the Fill Tower Tanks. The inspectors observed a 55-gallon satellite accumulation area (SAA) drum of hazardous waste filter bags (Pictures 5-6). The filter bags are generated from the changeover of paint formulations. The drum was closed and labeled. The inspectors also observed a 5-gallon container with a discarded hazardous waste filter bag inside (Pictures 7-8). Mr. Power explained that the 5-gallon containers are used to carry the dirty solvent filter bags to the drum and prevents releases to the area. However, the container was not labeled or closed.

Pursuant to ADEM Admin. Code r. 335-14-3-.01(5)(a)4 [40 C.F.R. § 262.15(a)(4)], which is a condition of the SAA Permit Exemption, a generator is required to keep containers of hazardous waste closed at all times during accumulation, except when adding, removing, or consolidating waste; or when temporary venting of a container is necessary for the proper operation of equipment, or to prevent dangerous situations, such as build-up of extreme pressure.

Pursuant to ADEM Admin. Code r. 335-14-3-.01(5)(a)5 [40 C.F.R. § 262.15(a)(5)], which is a condition of the SAA Permit Exemption, a generator is required to mark or label its containers (i) with the words "Hazardous Waste" and (ii) with an indication of the hazards of the contents.

A second 5-gallon container for spent latex filter bags was observed near the latex paint Fill Tower Tanks. Mr. Power explained that the latex filter bags are cleaned and reused, and the flushed latex wash water is reused in the process.

The inspectors observed the Small Batch Process, a smaller version of the main production area, that specializes in specific customer needs. The SAA contained a 55-gallon hazardous waste drum of paint filter bags and a 55-gallon hazardous waste drum of paint skins (Pictures 9-11). The drums were closed and labeled.

10.2 Main Warehouse

The main warehouse has final product stored in the center aisle and raw materials on the side aisles. This warehouse also houses the solvent tanks and the solvent still. The solvent recovery dirty tank, SRD1 was disconnected from all piping receiving dirty solvent (Pictures 12-16). During the December 18, 2018, RCRA inspection by ADEM, the inspector, Mr. Corey Holmes, observed that the tank and its auxiliary connections were not tagged or monitored for leak detection, daily inspections were not conducted on the tank, the tank was not labeled as hazardous waste and the tank did not have an integrity test conducted by a professional engineer.

Mr. Power and Mr. Breckenridge explained to the inspectors that the company had a tank integrity test conducted and found that it was beneficial to discontinue use and disconnect the tank based on the engineering report. On February 22, 2019, Mr. Breckenridge notified ADEM via a mailed letter that the dirty solvent tank and ancillary equipment was taken out of service on February 19, 2019. Mr. Breckenridge stated that the contents of the tank and ancillary equipment were placed in drums and managed as hazardous waste in accordance with regulatory requirements.

A new tank has been ordered to replace the out of service tank. Mr. Power assured the inspectors that the new tank will be installed according to the RCRA tank requirements and monitored as required. However, prior to the December 18, 2018 compliance evaluation inspection and removing the tank and ancillary equipment from service in 2019, the requirements 40 C.F.R. Part 265 Subpart BB which is complying with the air emission standards for process vents and 40 C.F.R. Part 265 Subpart CC which is complying with the organic air emission standards, were not met.

Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)2. [40 C.F.R. § 262.17 (a)(2)], which incorporates ADEM Admin. Code r. 335-14-6-.27, .28 and .29 [Subparts AA, BB, and CC of 40 CFR Part 265], and is a condition of the LQG Permit Exemption, a generator is required to

comply with applicable organic air emission standards for tanks.

Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)2. [40 C.F.R. § 262.17(a)(2)], which incorporates ADEM Admin. Code r. 335-14-6-.28 [40 C.F.R. Part 265, Subpart BB], and is a condition of the LQG Permit Exemption, a generator accumulating hazardous waste in tanks must comply with the RCRA Subpart BB organic air emission standards for equipment leaks, including, but not limited to the recordkeeping requirements in ADEM Admin. Code r. 335-14-6-.28 [40 C.F.R. § 265.1064].

Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)2. [40 C.F.R. § 262.17(a)(2)], which incorporates ADEM Admin. Code r. 335-14-6-.29 [40 C.F.R. Part 265, Subpart CC] and is a condition of the LQG Permit Exemption, a generator accumulating hazardous waste in tanks must comply with the RCRA Subpart CC organic air emission standards for tanks, including, but not limited to the recordkeeping requirements in ADEM Admin. Code r. 335-14-6-.29 [40 C.F.R. § 265.1090].

The dirty solvent distillation unit was near the SRD1 tank and located in a small open room. The still is a single-phase evaporator that holds a 150-gallons of dirty solvent. The dirty solvent was previously pumped from the SRD1 into the still. Now, the dirty solvent is drummed and then pumped into the still from the drums. A 55-gallon SAA drum underneath the still is used to capture the solvent sludge discharging from a pipe in the bottom of the still. The still may generate 55 to 80-gallons of solvent sludge in one run. The clean solvent is piped to a red 150-gallon tank sitting next to the still.

At the time of the inspection, the inspectors observed two 5-gallon containers of unidentified contents. The containers were not closed or labeled. Mr. Power and Mr. Breckenridge were not aware of the contents.

Pursuant to ADEM Admin. Code r. 335-14-3-.01(2) [40 C.F.R. § 262.11], a person who generates a solid waste, as defined in ADEM Admin. Code r. 335-14-2-.01(2) [40 C.F.R. § 261.2], must make an accurate determination as to whether that waste is a hazardous waste in order to ensure wastes are properly managed according to applicable RCRA regulations.

Later during the inspection, the inspectors observed the still discharging the solvent sludge into the unlabeled 55-gallon drum. The discharge was mostly liquid and not very solidified. When the inspectors noted this to Mr. Power and Mr. Breckenridge, Mr. Power stated that the sludge is usually more solid. The inspectors recommended putting the hazardous waste label on the drum prior to discharging into the drum.

The 55-gallon SAA drum of spent aerosol residue was in the Caustic Wash area (Pictures 25-26). The drum had an aerosol can puncture system attached to the bung and aerosol cans and debris stored on top. The drum was observed to be closed and labeled.

10.3 Low Flash Warehouse

The Low Flash Warehouse is the production area for the solvent based combustible paints which includes two-part epoxy paints. The production area has two operations and produces 200 to 500 batches. Due to the combustible nature of the material, no cellphones or cameras were allowed in

this area. No pictures were taken during the walk-through of this area.

The inspectors observed a 55-gallon SAA drum of Fill Tank filter bags, a 55-gallon SAA drum of Alkyd clean up materials, a 55-gallon SAA drum of paint skins and a 55-gallon SAA drum of alkyd clean up material in the warehouse. All drums were closed and labeled.

The production area makes two-part epoxy with a catalyst. The waste generated from the filling line tank was a 55-gallon SAA drum of hazardous waste paint filter bags in the upstairs storage. The dirty solvent generated from the process is not distilled, instead the dirty solvent is put back into the process.

The Central Accumulation Area (CAA) is in the Low Flash Warehouse. The inspectors observed that the CAA was blocked off using chains and "No Smoking" signage. The CAA contained two 55-gallon drums of solvent sludge on a pallet dated June 26, 2019; forty-four 55-gallon drums of hazardous alkyd oil based paint and hazardous solvent wash filter bags sitting on secondary containment with the oldest date of June 17, 2019; thirty-eight 55-gallon drums of non-hazardous baghouse pigment dust, latex paint and water, latex paint skins, water and oil, and hose drain; one 55-gallon drum of unknown raw material with CEM AL LFD 96414 that was previously opened and used. All waste containers were closed and labeled. However, there was no decontamination equipment close to the CAA.

Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)6. [40 C.F.R. § 262.17(a)(6)], which incorporates ADEM Admin. Code r. 334-14-3-.14(3) [40 C.F.R. § 262.252(c)], and is a condition of the LQG Permit Exemption, a generator is required to locate equipment necessary to prepare for and respond to emergencies: Portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment, and decontamination equipment.

The Low Flash Lab is a separate room that provides quality control for the solvent based paints. There were multiple SAA in the Low Flash Lab. The inspectors observed a black 55-gallon SAA of hazardous waste alkyd clean up material, a white 5-gallon container of latex waste, two silver one-gallon containers of latex waste, a black 5-gallon container of lab waste that did not have hazardous waste label (Pictures 20-22), a cart with spent aerosol cans to be punctured that were not labeled (Picture 23), and a red fire can of xylene used for cleaning paint brushes (Picture 24).

Pursuant to ADEM Admin. Code r. 335-14-3-.01(5)(a)5 [40 C.F.R. § 262.15(a)(5)], which is a condition of the SAA Permit Exemption, a generator is required to mark or label its containers (i) with the words "Hazardous Waste" and (ii) with an indication of the hazards of the contents.

The universal waste lamps were stored in the Low Flash Warehouse. The lamps are bundled together with electrical tape and contained in a wooden box. The box was closed, labeled and dated April 15, 2019. Inside the box, the inspectors observed a broken lamp. The inspectors explained that broken lamps are hazardous waste and must be contained as separately.

Pursuant ADEM Admin. Code r. 335-14-11-.02(4)(d) [40 C.F.R. § 273.13(d)(2)], a SQHUW must immediately clean up and place in a container any lamp that is broken and must place in

a container any lamp that shows evidence of breakage, leakage, or damage that could cause the release of mercury or other hazardous constituents to the environment. Containers must be closed, structurally sound, compatible with the contents of the lamps and must lack evidence of leakage, spillage or damage that could cause leakage or releases of mercury or other hazardous constituents to the environment under reasonably foreseeable conditions.

10.4 Used Oil Staging

At the time of the inspection, six 55-gallon used oil drums and two 55-gallon drums of sprinkler water were staged near the tank farm waiting for pickup (Picture 27). The drums had been staged since June 25, 2019, but the transporter had not yet arrived to pump the oil out of the drums. The used oil drums are normally stored in the non-hazardous waste area of the CAA. The used oil was generated from the air compressor.

10.5 Pigment Dust Baghouse Hopper

During the tour, the inspectors observed an outside baghouse. Mr. Power explained that the facility has five baghouse hoppers for pigment dust. The baghouse the inspectors observed had three hoppers with 55-gallon drums underneath (Pictures 28-29). The pigment dust is disposed of as non-hazardous waste.

Records Review

The inspectors requested the training records, the contingency plan, the weekly inspection records, the waste profiles, the waste minimization plan, weekly inspection logs, the 2018-2019 hazardous, non-hazardous, and used oil manifests. The generator status notification (EPA Form 8700-12) was last updated April 15, 2019.

The inspectors requested the training records for the employees handling hazardous waste. Training records for Tremaine Hamby, Max Breckenridge and Adam Bradshaw were provided. Mr. Hamby is a new employee and was provided in-house Hazardous Waste Operator Training on June 12, 2019 by Adam Bradshaw. Mr. Breckenridge and Mr. Bradshaw were provided RCRA Hazardous Waste Management e-course by Tradebe Environmental Services, LLC on May 30, 2018 and June 6, 2018, respectively. The job titles and descriptions for Filling Line Operator, EHS Manager and Environmental, Health, Safety and Security Specialist were provided. The Filling Line Operator duties did not include hazardous waste duties.

Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)7. [40 C.F.R. § 262.17(a)(7)(iv)], which is a condition of the LQG Permit Exemption, the generator must maintain training records that include, among others: the job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job; a written job description for each position; a written description of the type and amount of both introductory and continuing training that will be given to each person filling a position; and records documenting that the training required has been given to and completed by Facility personnel.

The inspectors requested the RCRA Contingency Plan and Emergency Procedures revised on October 29, 2018. The plan included an emergency contact list, a current evacuation map, a list of emergency response equipment, a fire extinguisher inspection list, and documentation (i.e., green return receipt cards, emails) that copies of the contingency plan were provided to the local emergency response agencies (i.e., fire, police, hospital).

In addition, the updated regulation under the Generator Improvement Rule, requires that the generator amending its contingency plan submit a Quick Reference Guide of the contingency plan to the local emergency responders to have the following information:

(1) The types/names of hazardous wastes in layman's terms and the associated hazard associated with each hazardous waste present at any one time (e.g., toxic paint wastes, spent ignitable solvent, corrosive acid);
(2) The estimated maximum amount of each hazardous waste that may be present at any one time;
(3) The identification of any hazardous wastes where exposure would require unique or special treatment by medical or hospital staff;
(4) A map of the facility showing where hazardous wastes are generated, accumulated and treated and routes for accessing these wastes;
(5) A street map of the facility in relation to surrounding businesses, schools and residential areas to understand how best to get to the facility and also evacuate citizens and workers;
(6) The locations of water supply (e.g., fire hydrant and its flow rate);
(7) The identification of on-site notification systems (e.g., a fire alarm that rings off site, smoke alarms); and
(8) The name of the emergency coordinator(s) and 7/24-hour emergency telephone number(s) or, in the case of a facility where an emergency coordinator is continuously on duty, the emergency telephone number for the emergency coordinator.

At the time of the inspection, the current contingency plan had been updated after May 2017, and the Quick Reference Guide was not available at this time.

Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)6. [40 C.F.R. § 262.17(a)(6)], which incorporates ADEM Admin. Code r. 334-14-3-.14(10) [40 C.F.R. § 262.262(b)(1-8)], and is a condition of the LQG Permit Exemption, a generator amending its contingency plan submit a Quick Reference Guide of the contingency plan to the local emergency responders.

The inspectors reviewed the weekly inspection records for 2018-2019 for the facility. The inspectors observed that inspections were conducted by Adam Bradshaw.

The waste minimization plan was requested. The Waste Management Plan updated on October 9, 2018 provided. The inspectors reviewed Section 2: Waste Minimization Plan.

Hazardous and non-hazardous manifests were reviewed for 2018-2019. Hazardous and universal wastes and used oil were shipped to the following facilities: Clean Harbors Environmental Deer Park, LLC (EPA ID TXD055141378) in Deer Park, TX; Spring Grove Resource Recovery, Inc (EPA ID OHD000816629) in Spring Grove, OH; and Safety Kleen Systems, Inc. (EPA ID KYD053348108) in Smithfield, KY. The land disposal restriction forms were reviewed.

The inspectors requested and reviewed the waste profile for Baghouse Pigment Dust. The Baghouse Pigment Dust waste profile was non-hazardous, but the waste profile did not specify if the determination was based on generator knowledge or sampling analyses. No sampling analyses was provided for review.

Pursuant to ADEM Admin. Code r. 335-14-3-.01(2) [40 C.F.R. § 262.11], a person who generates a solid waste, as defined in ADEM Admin. Code r. 335-14-2-.01(2) [40 C.F.R. § 261.2], must make an accurate determination as to whether that waste is a hazardous waste in order to ensure wastes are properly managed according to applicable RCRA regulations.

11) Summary

The inspectors conducted the exit meeting with Mr. Power and Mr. Breckenridge. During this meeting, the EPA and ADEM presented the preliminary results of the inspection. Benjamin Moore and Company was inspected as a large quantity generator of hazardous waste, the facility appeared to be deficient with some requirements of RCRA.

12) Signed

Paula A Whiting

Paula A. Whiting
Environmental Engineer

Date

Concurrence

Alan A. Annicella
Chief
Land, Asbestos and Lead Section
Chemical Safety and Land Enforcement Branch

Date

ATTACHMENT A

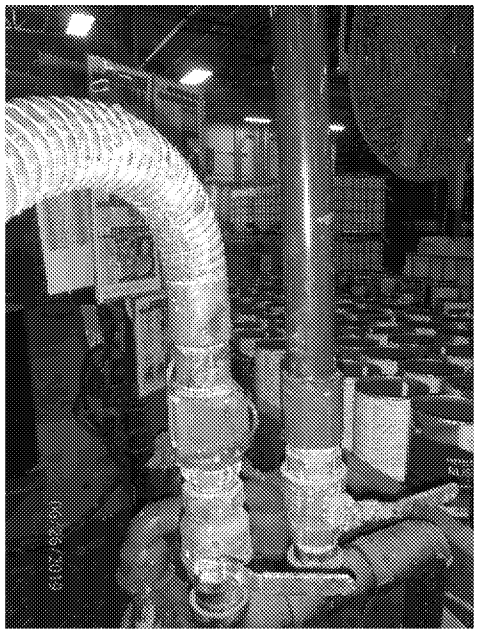
BENJAMIN MOORE AND COMPANY

PELL CITY, ALABAMA

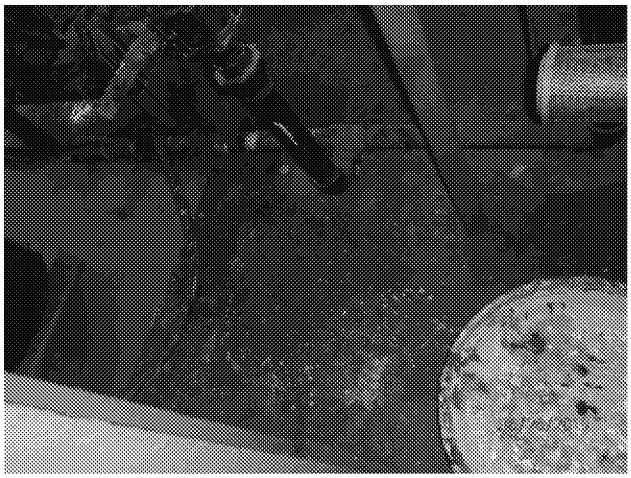
COMPLIANCE EVALUATION INSPECTION PHOTOGRAPHS

June 26, 2019

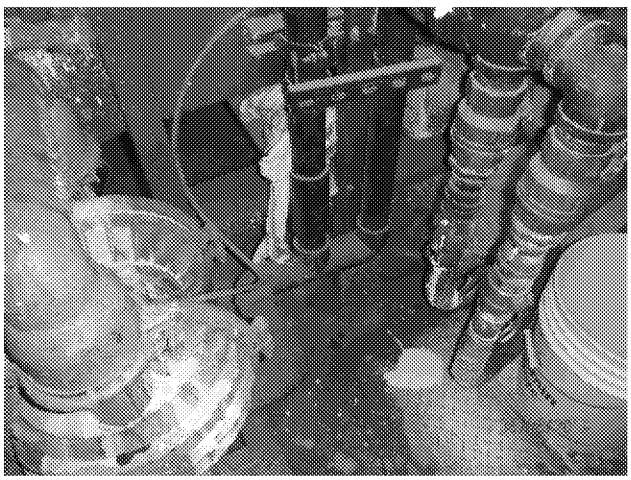
Photos taken by Paula A. Whiting
Camera Type: Olympus Tough
Serial Number: SC7374



Picture 1 – Filling Line dirty solvent piping



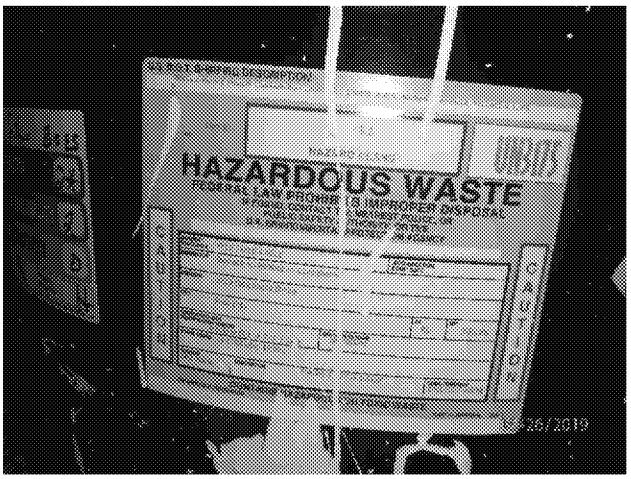
Picture 2 – Filling Line dirty solvent piping



Picture 3 – Filling Line dirty solvent piping

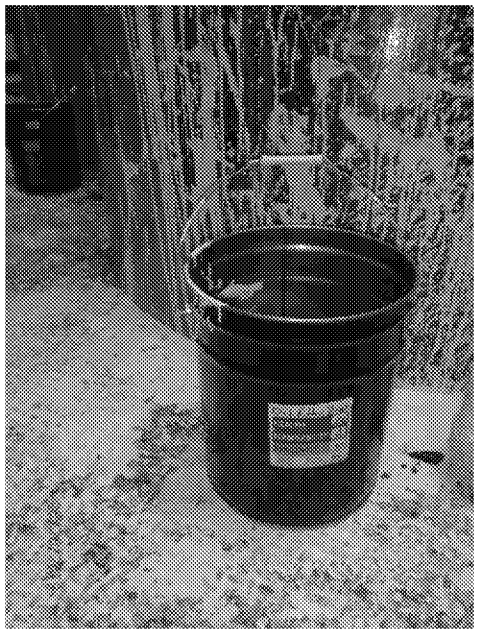
Picture 4 – Filling Line dirty solvent hose and empty drums

Picture 5 – Filling Line HW filter bag SAA



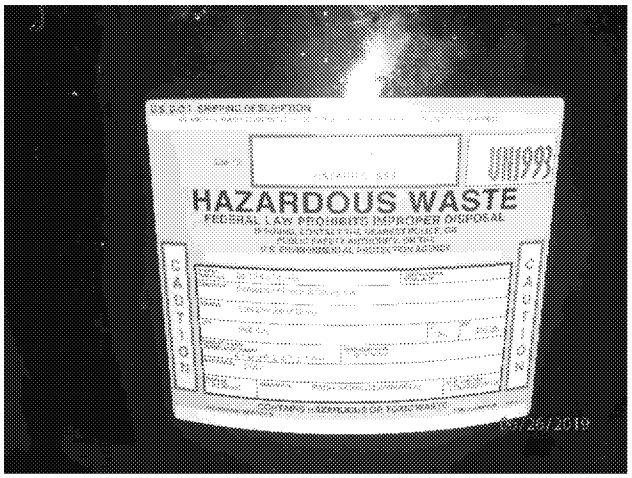
Picture 6 – Filling Line HW filter bag SAA label

Picture 7 – Filling Line HW filter bag

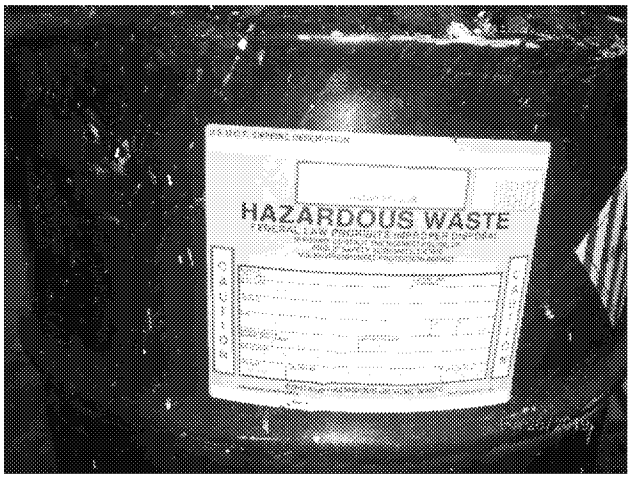


Picture 8 – Filling Line HW filter bag

Picture 9 – Small Batch Process SAA



Picture 10 – Small Batch Process SAA

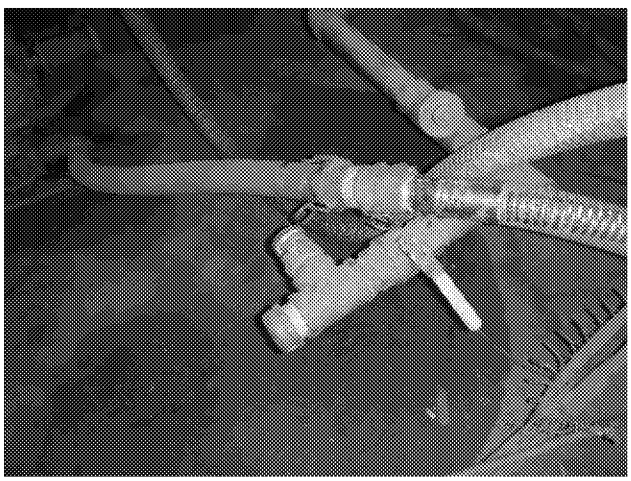


Picture 11 – Small Batch Process SAA

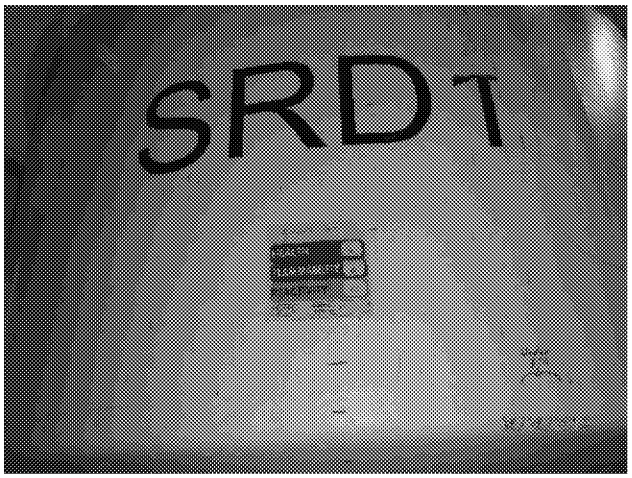
Picture 12 – Warehouse Solvent Recovery Dirty tank

Picture 13 – Warehouse Solvent Recovery Dirty tank

Picture 14 – Warehouse Solvent Recovery Dirty tank piping



Picture 15 – Warehouse Solvent Recovery Dirty tank piping



Picture 16 – Warehouse Solvent Recovery Dirty tank label

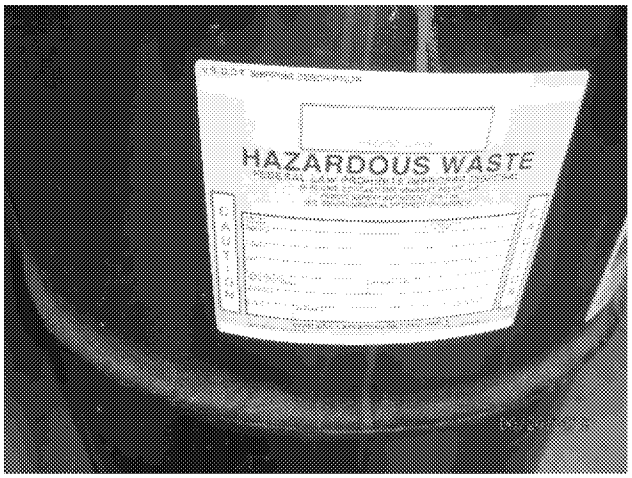
Picture 17 – Distillation unidentified container 1

Picture 18 – Distillation unidentified container 1

Picture 19 – Distillation unidentified container 2

Picture 20 – Low Flash Lab SAA drum

Picture 21 – Low Flash Lab SAA, non-HW containers and unidentified container



Picture 22 – Low Flash Lab SAA drum label

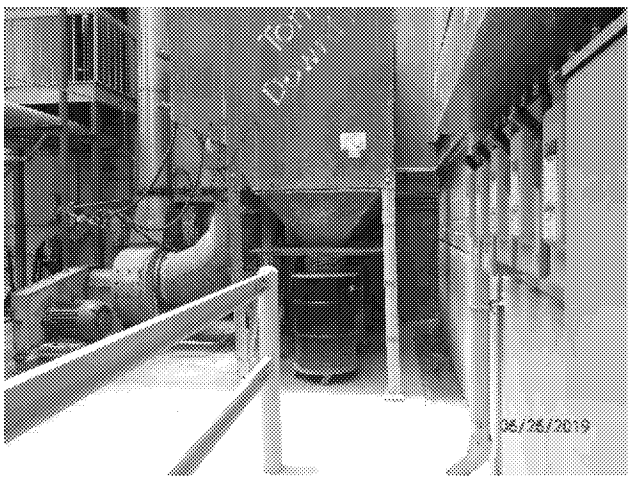
Picture 23 – Low Flash Lab spent aerosol cans

Picture 24 – Low Flash Lab xylene cleaning container

Picture 25 – Caustic Wash aerosol can puncture system and drum

Picture 26 – Caustic Wash aerosol can puncture system and drum

Picture 27 – Used oil drums staged



Picture 28 – Pigment Dust Baghouse and drums

Picture 29 – Pigment Dust Baghouse drums